

Remarks:

In an Office action dated October 11, 2006, the Examiner indicated that the application contains the following inventions:

Invention I - Claims 1-14 and 32-39, drawn to a medicament dispenser; and

Invention II - Claims 19 and 21, drawn to a method of dispensing medicament.

Applicant has herein elected to prosecute invention I, with traverse.

In the Office action, the Examiner indicates that the designated "inventions" (I and II) are related as product and process of use. The Examiner further indicates that distinct inventions are present if it can be shown that: (1) the process for using the product as claimed can be practiced with another materially different product; or (2) the product as claimed can be used in a materially different process of using that product. The Examiner concludes that "[i]n the instant case the medicament can be dispensed using a different method." Applicant asserts that this conclusion does not correspond to either of the recited bases for finding distinct inventions, and thus traverses the restriction requirement.

In particular, applicant notes that the designated "inventions" are (1) a medicament **dispenser**, and (2) a method of dispensing medicament. In the restriction requirement, the Examiner references use of a different method to dispense **medicament**, not use of a different method in connection with the medicament **dispenser**. The Examiner thus fails to even assert that the product as claimed (a medicament **dispenser**) can be used in another materially different process. It is submitted that restriction thus is improper, and the restriction requirement should be withdrawn.

Page 7 - RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. § 121
Serial No. 10/777,448
HP Docket No. 200309247-1
KH Docket No. HPCC 3B1

In view of the present restriction requirement, applicant has herein elected to prosecute invention I, with traverse. Although the Examiner designates Invention I as including claims 1-14 and 32-39, applicant notes that claims 36-39 actually depend from claim 19 (which is drawn to a dispensing method identified as Invention II). Applicant thus proposes that Invention I (as defined by the Examiner) actually includes claims 1-14 and 32-35.

Furthermore, applicant has amended the claims to make clear that claims 1 and 19 are appropriately considered in a single application. In particular, as amended, claim 19 recites a method of dispensing a medicament using a medicament dispenser as recited in claim 1. It is submitted that the restriction requirement thus should be withdrawn.

Applicant asserts that all claims are allowable, noting the Examiner's previous indication of allowability of claims 1-14 and 32-35 as drafted, and of claims 20, 21, 36 and 37 if rewritten in independent form (claim 19 was previously amended to include the subject matter of claim 20). Applicant thus respectfully requests a Notice of Allowance be issued.

////

////

////

////

////

////

////

Page 8 - RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. § 121
Serial No. 10/777,448
HP Docket No. 200309247-1
KH Docket No. HPCC 3B1

The Examiner is invited to contact the undersigned if the Examiner has any questions.

Respectfully submitted,


KOLISCH HARTWELL P.C.



Walter W. Kamstein
Registration No. 35,565
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679
Attorney for Applicant

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to Examiner S. Ali, Group Art Unit 3771, Assistant Commissioner for Patents, at facsimile number (571) 273-8300 on December 6, 2006.



Christie A. Doolittle

Page 9 - RESPONSE TO RESTRICTION REQUIREMENT UNDER 35 U.S.C. § 121
Serial No. 10/777,448
HP Docket No. 200309247-1
KH Docket No. HPCC 3B1